

REMARKS

Reconsideration and withdrawal of the rejections of the application and prompt issuance of a Notice of Allowance, or an interview at an early date, are respectfully requested.

This paper is in reply to matters set forth in the December 16, 2002 Advisory Action.

With respect to the allegation that the proposed Second Amendment After Final Action, the entry of which is hereby respectfully requested, raised an issue under Section 112, second paragraph, the articles "a" and "the" have been removed from claims to improve grammar. No new matter is added; and, the claim scope has not been changed. Thus, no estoppel should arise as to the herewith amendments.

As to the allegation that the proposed Second Amendment After Final Action, the entry of which is hereby respectfully requested, raised an issue of new matter, the inventors of the present application include authors of Meehan et al., 1998.

The text at the present application directly states at pages 22-23 that ORF1 and ORF2 of Meehan et al. correspond to ORF4 and ORF13 of the instant application and USSN 09/161,092. At page 26, the present application further confirms that ORFs 1 and 2 of Meehan are ORFs 4 and 13 of the instant application.

In this regard, the Examiner is also respectfully requested to consider the Declaration and Power of Attorney executed by the inventors: The inventors, which include authors of Meehan et al., 1998, confirm the accuracy of the specification by that Declaration, including that ORF1 and ORF2 of Meehan are identical to ORF4 and ORF13 of the instant application, and original claim 28.

Nonetheless, to expedite prosecution, in accordance with original claim 28 and the disclosure at page 5 of the present application, the claims are changed back to the ORF4 and ORF13 designation.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. The amendments of and additions to the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112: Rather, these amendments and additions are made simply for clarification and to round out the scope of protection to which Applicants are entitled. Support is found throughout the specification and from the pending and originally filed claims. Further,

changes to the claims herein are not narrowing amendments. Accordingly, no estoppel as to equivalents arises from or is intended by this paper.

Finally, while the undersigned respectfully disagrees with the assertion in the Advisory Action that the proposed Second Amendment After Final Action, the entry of which is hereby respectfully requested, would have required a new search because of changes in the scope of claims dependent from claim 1, the herewith CPA is filed so that Applicants and the Examiner may work through all of the issues. Thus, it is trusted that the issues addressed and overcome in the Second Amendment After Final Action (e.g., IDS, overcoming 112 issues) will also be handled by the Examiner in this CPA.

Moreover, if any issue remains as an impediment to allowance, an interview, at an early date, is respectfully requested, with the Examiner further respectfully requested to telephonically contact the undersigned to arrange a mutually convenient time and manner therefor.

However, in view of the remarks and amendments herewith and the matters previously discussed with the Examiner, the application is believed to be in condition for allowance. Favorable reconsideration of the application and reconsideration and withdrawal of the objections to and/or rejections of the application, and prompt issuance of a Notice of Allowance are earnestly solicited.

Respectfully submitted,
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APPENDIX: MARKED VERSION OF AMENDMENT

It is respectfully requested that the application be amended without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents, as follows:

IN THE CLAIMS

Please amend the claims, without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents, as follows:

1. (Five Times Amended) A composition for reducing viral load of porcine circovirus-2 (PCV-2) in a pig comprising a pharmaceutically or veterinarily or medically acceptable carrier and an active agent comprising a vector containing and expressing an exogenous nucleotide sequence, wherein the nucleotide sequence encodes [a] PCV-2 ORF4, PCV-2 ORF13, or PCV-2 ORF 4 and ORF13 [ORF1, a PCV-2 ORF2, or a PCV-2 ORF1 and ORF2].

2. (Four Time Amended) The composition of claim 1, wherein the vector contains and expresses PCV-2 [ORF1 and ORF2] ORF4 and ORF13.

21. (Four Times Amended) The composition of claim 1, additionally including at least one immunogen from at least one additional pig pathogen, or a vector expressing such an immunogen, wherein the vector expressing the immunogen can also be the vector expressing [the] PCV-2 ORF.

24. (Four Times Amended) The composition of claim 1, wherein the vector contains and expresses PCV-2 [ORF 1] ORF4.

25. (Thrice Amended) The composition of claim 1, wherein the vector contains and expresses PCV-2 [ORF2] ORF13.

50. (Four Times Amended) The method of claim 31, additionally including at least one immunogen from at least one additional pig pathogen, or a vector expressing such an immunogen, wherein the vector expressing the immunogen can also be the vector expressing [the] PCV-2 ORF4, PCV-2 ORF13, or PCV-2 ORF 4 and ORF13.